

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 21576 of 2004

Between:

- 1 Mediboyina Govindarajulu S/o.Ranga Rao
R/o.Uppalapadu, Gandepalli Mandal East Godavari District.**
- 2 Mediboyina Satyavathi W/o.Govindarajulu
R/o.Uppalapadu, Gandepalli Mandal East Godavari District.**

..... PETITIONER(S)

AND

- 1 The Government of A.P. Commercial Taxes Department
Peddapuram, E.G.District rep by its
Commercial Tax Officer.**
- 2 The Deputy Commercial Tax Officer Peddapuram, East Godavari District.**
- 3 Deputy Commissioner Commercial Taxes, Kakinada, E.G.District.**

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction more particulalry one in the nature of writ of mandamus declaring the ntoice dated 11.10.2004 issued by the 2nd respondent proposing to conduct the public auction on 25.11.2004 of the petitioners lands covered by R.S.No.179/3,306/1,303/2 of Uppalapadu Village, Gandepalli Mandal, East Godavari District, is illegal, arbitrary, un-constitutional, without Jurisdiction, and contrary to the provisions of A.P.R.R. Act and A.P.G.S.T. Act and the same is liable to be setaside and consequently direct the respondents not to take any further action against the petitioners and to pass.

Counsel for the Petitioner:MR.G.KRISHNA MURTHY

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

The Court made the following :

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THE HONOURABLE SRI JUSTICE

B.SUDERSHAN REDDY

AND

THE HONOURABLE SRI JUSTICE

T.CH.SURYA RAO

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WRIT PETITION No. 21576 of 2004

Order: (Per Hon'ble Sri Justice B.Sudershan Reddy)

The averments made in the affidavit filed in support of the writ petition do not inspire any confidence. The writ petition deserves to be dismissed on the sole ground of lack of bona fides on the part of the petitioners in invoking the extraordinary jurisdiction of this Court under Art. 226 of the Constitution of India challenging the proposed auction to be held under the provisions of the Revenue Recovery Act.

Learned counsel for the petitioners Sri G.Krishna Murthy submitted that the land in R.S.No. 179/3 belongs to the 2nd petitioner who is the wife of the 1st petitioner and therefore, the same cannot be permitted to be sold in public auction for the realization of the arrears of tax from the 1st petitioner. The submission is totally unacceptable for the reason that the 1st petitioner himself got issued a legal notice dated 16-11-2004 through a counsel addressed to the respondents, in which it is clearly stated that the land in R.S.No.179/3, 306/1

and 306/2 of Uppalapadu village belongs to none other than the 1st petitioner himself. This fact itself is enough to disbelieve the petitioners version. Obviously the petitioners did not approach this Court with clean hands and the writ petition deserves dismissal on this ground alone.

However, we leave the remedy of the petitioners that may be available to them in law to challenge the auction, if they are so advised, in which event, the matter shall be considered on its own merits uninfluenced by the dismissal of this writ petition.

The writ petition shall stand accordingly dismissed at the admission stage.

B.Sudershan Reddy, J.

T.Ch.Surya Rao, J.

24th November, 2004

grr

Rule nisi has been made absolute. Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the twenty fourth day of November, Two Thousand and Four.

To

1. TheCommercial Taxes Department, Peddapuram, East Godavari District rep. By its Commercial Tax Officer.
2. The Deputy Commercial Tax Officer, Peddapuram, East Godavari District.
3. The Deputy Commissioner, Commercial Taxes, Kakinada, East Godavari Dist.
4. Govt. Pleader for Taxes (OUT)
5. Two C.D. copies.